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**Senate**

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**State of Minnesota**

FROM: Stephanie James, Senate Counsel (651/296-0103)

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RE: Governor's Powers in a Peacetime Emergency

By declaring a peacetime emergency declaration under Minnesota Statutes, section 12.31, the Governor may exercise all powers and duties conferred and imposed by chapter 12. These powers include both general authority and specific authority. The Governor's general authority includes providing general direction and control of emergency management. Section 12.21, subdivision 3, lists the Governor's specific authority, including the following:

- make, amend, and rescind the necessary orders and rules to carry out the provisions of chapter 12 and section 216C.15 (energy conservation and allocation) within certain limits, with due consideration of the plans of the federal government, and without needing to comply with rulemaking process statutes. No order or rule has the effect of law until approved by the executive council and filed with the secretary of state;
- ensure a comprehensive emergency operations plan and emergency management program are maintained and integrated with emergency plans of the federal government;
- procure supplies, equipment and facilities; institute training and public information programs; take preparatory steps for training and equipping emergency management personnel;
- enter into agreements with other states, tribal entities, and Canadian provinces, for mutual aid or cooperation;
- cooperate with the President and armed forces, federal officials, and officials of other states in matters pertaining to emergency management, including the direction and control of:
  - emergency preparedness drills;
  - warnings for drills or actual emergencies;

- shutting off water mains, gas mains, electrical power connections, and suspending utilities;
  - “the conduct of persons in the state, including entrance or exit from any stricken or threatened public place, occupancy of facilities, and the movement and cessation of movement of pedestrians, vehicular traffic, and all forms of private and public transportation, during, prior, and subsequent to drills or actual emergencies;”
  - public meetings or gatherings; and
  - the evacuation, reception, and sheltering of persons
- contribute to political subdivisions, within limits of an appropriation for that purpose, up to 25 percent of the cost of acquiring organizational equipment;
  - formulate and execute, with approval of the Executive Committee, plans and rules for the control of traffic for the rapid and safe movement of troops and military vehicles and materials, for conservation of critical materials, or for emergency management purposes;
  - coordinate state agencies and local governments concerned directly or indirectly with public highways and streets;
  - alter or adjust the work hours and annual and sick leave provisions and payroll laws for state employees in the executive branch as necessary to minimize the impact of the disaster or emergency, conforming the alterations or adjustments to existing state laws and collective bargaining agreements to the extent practicable;
  - authorize the commissioner of education to alter school schedules, curtail school activities, or order schools closed; and
  - transfer the direction, personnel, and functions of state agencies to perform response and recovery programs.

The list above is somewhat excerpted and paraphrased. If any of these is of particular interest, we can provide a more precise description.

In addition to those actions specifically authorized for peacetime emergencies, chapter 12 also authorizes various other actions by the governor in declared emergencies and disasters. For example, the governor may:

- establish rules, in accord with law, for the proper and efficient operation and administration of the emergency management program or to cooperate with the federal government to qualify for federal aid or with political subdivisions in establishing and maintaining personnel standards on a merit basis (Minn. Stat. section 12.22, subd. 3);

- to approve purchases by political subdivision of organizational equipment to be paid for in part by the federal government and in part by taxes levied by the political subdivision (Minn. Stat. section 12.26);
- approve mutual aid agreements entered into by the state director of emergency management or the directors of each local organization for emergency management with emergency management agencies or organizations from other states or Canadian provinces (Minn. Stat. section 12.27, subd. 2 and 3);
- dispatch state equipment and personnel outside of the state for emergencies, after considering needs in this state (Minn. Stat. section 12.27, subd. 4);
- apply to the federal government on behalf of a political subdivision for a loan if the political subdivision will suffer a substantial loss of tax and other revenues from a major disaster declared by the president; the governor may determine the amount needed and may recommend cancellation of repayment, under certain conditions (Minn. Stat. section 12.301);
- direct the police, firefighting, health or other force of a political subdivision to go to the aid of another political subdivision (Minn. Stat. 12.33);
- require any person to perform services for emergency management purposes, and commandeer motor vehicles, tools, appliances, medical supplies, or other personal property and facilities, under certain conditions and with specified limits (Minn. Stat. section 12.34);
- enter contracts and incur obligations necessary to combat the disaster by protecting the health and safety of people and the safety of property and by providing emergency assistance to victims of the disaster, and may exercise those powers without complying with time-consuming procedures and formalities in law that pertain to the performance of public work, entering contracts, incurring obligations, employing temporary workers, renting equipment, purchasing supplied and materials, the Civil Service Act and rules, low bidding provisions or requirements for budgeting and allotment of funds (Minn. Stat. 12.36);
- approve fee waivers by state agencies under certain circumstances (Minn. Stat. section 12.38);
- direct measures for disposing of dead human bodies (Minn. Stat. section 12.381);
- request the service of a licensed professional from another state, a province of Canada, or the District of Columbia, and that person may perform their professional duties to aid in an emergency (Minn. Stat. section 12.42). Perhaps this would be useful in obtaining the services of licensed medical professionals; and
- limit civil lawsuits against certain hospitals and medical transport providers under certain circumstances (Minn. Stat. section 12. 61).

The governor's powers granted for peacetime (and other) emergencies is limited in at least the following ways expressed in chapter 12: the governor may not, by subpoena or otherwise, require any person to appear before any person or to produce any records for inspection by any person, or to examine any person under oath and may not remove summarily from office any person unless the person is appointed under chapter 12 or other provision in law permits summary removal.